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MINERAL MINING  
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# COMMONWEALTH OF VIRGINIA

## *Department of Mines, Minerals and Energy*

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### DMME Announces Intended Regulatory Action to Amend Virginia Coal Surface Mining Reclamation Regulations

**Richmond, VA** – The Department of Mines, Minerals and Energy today announced the publication of a Notice of Intended Regulatory Action on October 3, 2005, concerning various coal surface mining reclamation regulations. The proposed amendments pertain to the administrative hearing process, consistency with federal regulations, stream channel design, and civil penalties.

Amendments of the administrative hearing regulations in the Coal Surface Mining Reclamation Regulations are being made to revise the Virginia Code Section numbers regarding the Virginia Administrative Process Act to the renumbering that became effective October 1, 2001. This is to ensure that the agency, industry, and public are provided with the correct and updated section references of the Virginia Administrative Process Act. Additional amendments regarding the administrative hearing process would provide direction as to where requests for formal administrative review and notices of judicial appeal shall be filed. These changes will ensure a consistent administrative and judicial review process for all parties to a contested action/decision.

Amendments regarding subsidence control plans are made to be consistent with the corresponding federal amendments regarding presubsidence survey requirements and the rebuttable presumption of subsidence determinations. The U. S. Court of Appeals vacated the federal rules on April 27, 1999; whereupon, the Federal Office of Surface Mining suspended its rules effective December 22, 1999.

Requirements are being amended to allow the approval of natural stream restoration channel design, as approved by the U.S. Army Corps of Engineers. This will allow the restoration of an impacted stream channel to one that is more natural and environmentally sound.

Regulatory language concerning “thick overburden” conditions will be modified to ensure the Virginia regulation is consistent with the federal requirement.

Chapter 3 of the 2005 Virginia Acts of Assembly (HB 2573) increased the civil penalties for violations of the Virginia Coal Surface Mining Control and Reclamation Act that result in a personal injury or fatality. Virginia Coal Surface Mining Reclamation Regulations are being amended to set out the process by which the final civil penalty amount is calculated.

The Notice of Intended Regulatory Action was published in the Virginia Register of Regulations and the Virginia Town Hall at <http://www.townhall.state.va.us/> on October 3, 2005. Public comments may be sent to Stephen A. Walz, Division Director, Department of Mines, Minerals and Energy, Ninth Street Office Building, 8<sup>th</sup> Floor, 202 North Ninth Street, Richmond, VA 23219-3402, via e-mail at [Stephen.Walz@dmme.virginia.gov](mailto:Stephen.Walz@dmme.virginia.gov) or by calling (804) 692-3211, until November 3, 2005.

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